

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

VICTOR WALTHOUR	:	
	:	CIVIL ACTION
Plaintiff,	:	
	:	2:20-cv-00068-CFK
v.	:	
	:	
CITY OF PHILADELPHIA, et al.	:	
	:	
Defendants.	:	
	:	

PNC BANK, NATIONAL ASSOCIATION'S MOTION TO DISMISS PLAINTIFF'S
COMPLAINT PURSUANT TO FED. R. CIV. P. 12(b)(1) AND (6)

Defendant PNC Bank, National Association ("PNC"), by and through its undersigned counsel, moves to dismiss Plaintiff Victor Walthour's Complaint pursuant to Federal Rules of Civil Procedure 12(b)(1) for lack of subject matter jurisdiction and, alternatively, pursuant to Federal Rule of Civil Procedure 12(b)(6) for failure to state a claim upon which relief may be granted, and in support thereof states as follows:

1. On January 3, 2020, Plaintiff Victor Walthour filed a *pro se* Complaint against the City of Philadelphia, the Honorable John W. Herron, Paul Feldman, Linda Hobkirk and PNC, alleging Defendants' "illegal selling of property located at 809 Shavertown Road, Garnet Valley PA 19060." Plaintiff alleges that the Defendants conspired "to forge documents to sale property Mr. Walthour won in settlement." A copy of the Complaint is attached as Exhibit "A."

2. The Complaint does not contain a prayer for relief. Plaintiff avers it is "to be named later."

3. It is unclear what claim Plaintiff attempts to allege against PNC. The Complaint contains no facts or allegations against PNC other than the general averment that the Defendants

conspired.

4. Jurisdiction is purported to be based on a federal question, but the Complaint does not identify the Constitutional, statutory or treaty right at issue.

5. Over the years Plaintiff filed numerous Federal court actions against PNC and the other defendants with regard to a case pertaining to his incapacitated wife, *In re Estate of Rosalyn Patterson Walthour*, No. 520 AI of 2004, over which Judge Herron presided. Those cases included, among others, *Victor Walthour v. Paul Feldman, et al.*, No. 2:15-cv-06643 (CDJ), *Victor Walthour v. Judge John W. Herron, et al.*, No. 2:16-cv-02162 (MAK), and *Victor Walthour v. City of Philadelphia, et al.*, No. 2:18-05045 (CFK), all of which have been dismissed.

6. The Complaint is facial deficient in that it fails to establish subject matter jurisdiction. No basis for federal question jurisdiction exists and there is no complete diversity between the parties.

7. The Complaint fails as a matter of law to state a cause of action against PNC upon which relief may be granted.

8. The Complaint does not contain any requisite allegations to support a claim for recovery against PNC under any legal theory. Accordingly, any request on the part of Plaintiff for leave to further amend his pleading would be futile.

9. The Honorable John W. Herron and Paul Feldman each have filed motions to dismiss the Complaint (ECF 8 and ECF 9, respectively). PNC joins in those motions and for the reasons also stated in those motions, the Complaint should be dismissed.

WHEREFORE, PNC respectfully requests that the Court dismiss the Plaintiff's Complaint, with prejudice.

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Date: February 11, 2020